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ties was withdrawn by the principal without the knowledge of the other sureties. The defendant then executed a separate instrument as surety for the same principal guaranteeing the payment of the aforesaid bond. He knew that the name of the surety had been withdrawn from the bond but did not know that it had been done without the consent of the other sureties. *Held,* That the other sureties on the bond were released, but the bond was not wholly void but was binding upon the principal, and that the defendant was liable on the guaranty since he was put upon inquiry from the knowledge which he had and should have ascertained the true facts. *Shepherd Land Co.* v. *Banigan* (R. I. 1913) 87 Atl. 531.

It is evident that the co-sureties on the bond who did not know of the withdrawal were released. *Smith* v. *United States,* 69 U. S. 219, 17 L. Ed. 788. But the question of the liability of the defendant who signed after the alteration is a different one, involving a question of mistake in the execution of an instrument rather than one of discharge of a surety. In the principal case there were two instruments involved. A similar question has arisen in several American cases in all of which, however, the parties had signed the same instrument. A surety who signs a bond in ignorance of the fact that the other sureties have already been released by an alteration of the bond without their knowledge is not bound, *Howe* v. *Peabody,* 2 Gray 556. The same was held where the release was by reason of the withdrawal of the name of a former surety. *State* v. *McGonigle,* 101 Mo. 353, 8 L. R. A. 735. In both of these cases the defendant was ignorant of the fact that there had been any alteration of the instrument, but otherwise knew what he was signing. The decision in the principal case is based upon the following cases, *State* v. *Van Pelt,* 1 Ind. 304 and *Mitchell* v. *Burton,* 39 Tenn. (3 Head.) 613. In these cases it was held that one who signs in the place of a surety whose name has been withdrawn, and with knowledge of this fact, is not relieved from liability on the instrument because he did not know that it had been done without the knowledge and consent of the other sureties on the instrument and that they were not liable with him as he had supposed. In the first of these cases the decision is put upon the ground that the mistake was as the legal consequences of the act and therefore did not affect the contract. This would not seem to be sound as the question of whether the other sureties had knowledge of the release is one of fact and not of law. The same reason would have applied to the two first cases cited. If the principal case is to be sustained it is upon the ground adopted in the Tennessee decision, constructive notice. There seems to be good reason to hold that from his knowledge of the fact that a surety's name had been withdrawn the defendant should be charged with notice of all the circumstances surrounding such withdrawal.

SALES—BONAFIDE PURCHASER—CONDITIONAL SALE—NOTICE OF CONDITION. —Action for conversion of machinery sold to a contractor, to be placed in an electric plant for defendant city, title being expressly reserved by vendor until payment. Vendor knew it was to be attached to the said realty. Defendant city disclaimed all knowledge that title was reserved. *Held,* in order to bind the city, it must have had actual notice of the reserved title, and its

rights were not affected without such notice. *Allis Chalmers Co.* v. *City of Atlantic,* (Iowa 1913) 144 N. W. 346.

It should be noted that the Code of Iowa required recording of such sales, but that the record in this case was not sufficient to amount to constructive notice because of the non-residence of the vendor and the contractor. The statement of the Court that actual notice would be required, on the ground of estoppel, and that constructive notice would be sufficient was therefore dictum. The question then arises what rights does an owner, sub-vendee or mortgagee of premises get, assuming that he is a bona-fide purchaser for value without notice, when personally sold upon condition is affixed to the realty? As between the immediate parties (vendor and conditional vendee) no difficulty arises in preserving the character of the chattels even if they are annexed to the realty with the seller's assent, so long as they remain distinguishable and severable, *Lansing Iron Works* v. *Walker,* 91 Mich. 409, 30 Am. St. Rep. 488; *Tyson* v. *Post,* 108 N. Y. 217, 2 Am. St. Rep. 409, *Rogers* v. *Cox,* 96 Ind. 157, 49 Am. Rep. 152. The same rule applies to creditors of the vendee. *Sturgis* v. *Warren,* 11 Vt. 433; *Sisson* v. *Hibbard,* 75 N. Y. 542. As to purchasers from conditional vendee of personalty, see *Harkness* v. *Russell,* 118 U. S. 663. But in the principal case the machinery was attached to the realty of a third person who had no notice of the conditions attached to the sale. As against subsequent purchasers of the land without notice (by the weight of authority) there is no action, as the chattels are deemed to have become realty. *Stillman* v. *Flenniken,* 58 Iowa 450, 43 Am. Rep. 120; *Hobson* v. *Gurringe,* 1 Ch. 182 (1897); *Prince* v. *Case,* 10 Conn. 357, 27 Am. Dec. 675; *Tibbets* v. *Horne,* 65 N. H. 242, 23 Am. St. Rep. 31; but see *Mott* v. *Palmer,* 1 N. Y. 564; *Ford* v. *Cobb,* 20 N. Y. 344. where it was held that the subsequent purchaser got no title but must rely on the warranties in his deed. The same general rule applies to subsequent mortgagees without notice. *Hopewell Mills* v. *Taunton Savings Bank,* 150 Mass. 519, 15 Am. St. Rep. 235, 6 L. R. A. 249; *Case Mfg. Co.* v. *Carver,* 45 Oh. St. 289; *Wickes* v. *Hill,* 115 Mich. 333, but see contra *Warren* v. *Liddel,* 110 Ala. 232, as to the rights of a prior mortgagee see 10 MICH. L. REV. 64.

SALES—MISREPRESENTATION.—Plaintiff purchased a stock of merchandise from defendant, who assured plaintiff that the value of the stock was $3500 and that the business was profitable. Plaintiff had an inventory taken, found the value of the stock to be $1682.16, and filed a bill asking for a return of the securities given for the purchase price. *Held,* Plaintiff could rescind for fraud even though he had had an opportunity to inspect. *Face* v. *Hall* (Mich. 1913) 143 N. W. 622.

Where parties deal at arms length and on an equal footing, it is well settled that a false representation concerning the worth or value of the goods will neither sustain an action, nor warrant a recission: *Van Epps* v. *Harrison,* 5 Hill. (N. Y.) 63, 40 Am. Dec. 314; *Deming* v. *Darling,* 148 Mass. 504, 2 L. R. A. 743; *Poland* v. *Brownwell,* 131 Mass. 138; *Page* v. *Parker,* 43 N. H. 363; *Chrysler* v. *Canaday,* 90 N. Y. 272; *Evans* v. *Gerry,* 174 Ill. 595. This is especially true where the merchandise is open to inspection and the buyer